

MAINE STATE LEGISLATURE

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MARINE RESOURCES

Reported by: Senator GOLDTHWAIT of Hancock for the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 673, L.D. 1733, Bill, "An Act to Clarify Certain Provisions of Law Pertaining to Lobster Management"

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, lobster fishing is essential to the culture and economy of Maine's coastal communities; and

Whereas, the State's lobster laws need amending to enable participants in the lobster fishery to obtain licenses in 1996; and

Whereas, certain provisions of the State's lobster laws are in need of clarification; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 12 MRSA §6421, as amended by PL 1995, c. 468, §3, is further amended to read:

§6421. Lobster and crab fishing licenses

1. **License required.** It is unlawful for any person to engage in the activities authorized by this license under this section without a current Class I, Class II, Class III, Class-IV or apprentice, student or noncommercial lobster and crab fishing license or other license issued under this Part authorizing the activities.

2. **Licensed activity.** The holder of a Class I, Class II, Class III, Class--IV apprentice or student lobster and crab fishing license may fish for, take, possess, ship or transport within the State lobsters or crabs and sell lobsters or crabs the license holder has taken. The license does not authorize the license holder to remove lobster meat from the shell or to take, possess, transport or ship lobster parts or meat. The holder of a Class II or Class III license is liable for the licensed activities under this subsection of all unlicensed crew members assisting that licensee.

2-A. Licensed activity; noncommercial license. The holder of a noncommercial lobster and crab fishing license may fish for, take, possess, ship or transport within the State lobsters or crabs the license holder has taken. The license does not authorize the license holder to sell lobsters or to remove lobster meat from the shell or to take, possess, transport or ship lobster parts or meat.

3-A. **License limitation.** A license authorizes activities by individuals as follows.

A. A Class I license authorizes the licensed activities under subsection 2 by the individual who is named in the license. Any individual assisting or helping a Class I license holder in these activities must also be licensed.

B. A Class II license authorizes the license holder to engage in the licensed activities under subsection 2. A Class II license holder may engage one unlicensed crew member to assist in the licensed activities under the direct supervision of the Class II license holder.

C. A Class III license authorizes the license holder to engage in the licensed activities under subsection 2. A Class III license holder may engage 2 unlicensed crew members to assist in the licensed activities under the direct supervision of the Class III license holder.

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2 D. ~~A--Class--IV~~ An apprentice lobster and crab fishing
 4 license authorizes the apprentice so licensed to engage in
 the licensed activities under subsection 2 on that
 apprentice's sponsor's vessel when the apprentice's sponsor
 6 is on board the vessel. A Class-IV-license-holder person
who holds an apprentice lobster and crab fishing license may
 8 not tend any traps unless the traps are fished by the
 sponsor of the apprentice so licensed. For the purpose of
 10 this paragraph, "apprentice's sponsor" means a person who
holds a Class I, Class II or Class III lobster and crab
 12 fishing license issued under this section.

14 E. A student license authorizes the license holder to
 engage in the licensed activities ~~using not more than 150~~
 16 ~~lobster traps at any one time~~ under subsection 2. A person
issued a student license may not submerge at any one time
 18 more than 150 lobster traps in the coastal waters of the
State.

20 F. A noncommercial lobster and crab fishing license
 22 authorizes the license holder to engage in the licensed
activities under subsection 2-A. A person issued a
 24 noncommercial lobster and crab fishing license may not
submerge at any one time more than 5 lobster traps in the
 26 coastal waters of the State.

28 **4. Exception.** A license is not required to take or catch
 crabs with bare hands or hook and line.

30 **5. Eligibility.** A Class I, Class II, Class III, ~~Class-IV~~
 32 ~~apprentice, noncommercial~~ or student lobster and crab fishing
 license may only be issued to an individual and is a resident
 34 license. A Class I, Class II or Class III license may be issued
 to a person only if the person:

36 A. Possessed a calendar year 1993 or calendar year 1994
 38 Class I, Class II or Class III license issued under this
~~section or possessed a Class I, Class II or Class III~~
 40 ~~license under this section that was issued between January~~
~~1, 1995 and March 31, 1995 and owned and operated a boat~~
 42 ~~used for harvesting lobsters in the coastal waters in~~
~~calendar year 1993 or 1994 or between January 1, 1995 and~~
 44 ~~March 31, 1995~~ Documents to the commissioner that the person
harvested lobsters in calendar year 1993, calendar year 1994
 46 or at any time between January 1, 1995 and September 30,
1995 while in possession of a Class I, Class II or Class III
 48 license issued to that person under this section;

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2 B. Held a Class I, Class II or Class III license issued
under this section in calendar year 1992 and documents to
4 the satisfaction of the commissioner that the person did not
possess a license issued under this section in calendar year
6 1993 or 1994 and did not apply for a license issued under
this section at any time between January 1, 1995 and March
31 September 30, 1995 because of an injury or other medical
8 condition;

10 C. Meets the requirements of the apprentice program under
section 6422;

12 D. Documents to the commissioner that the commissioner had
14 suspended the person's license privileges for a length of
time that included the entire period between from January 1,
16 1993 and-March-31 to September 30, 1995;

18 E. Documents to the commissioner that the person made a
substantial investment at any time between January 1, 1993
20 and April September 30, 1995 in equipment directly related
to the harvesting of lobsters. The commissioner shall
22 define by rule the term "substantial investment"; or

24 F. Is 65 years of age or older and has held a lobster and
crab fishing license; or

26 G. Documents to the commissioner that the person obtained
28 practical lobster fishing experience as a sternman employed
by the holder of a Class I, Class II or Class III license
30 issued under this section during one of the following time
periods:

32 (1) At any time between January 1, 1995 and October 1,
34 1995 and during any part of any calendar year prior to
calendar year 1995; or

36 (2) During any part of any 2 calendar years prior to
38 calendar year 1995.

40 **5-A. Student license eligibility.** A student license may
only be issued to a person who, at the time of application, is a
42 full-time student not more than 22 years of age. For the
purposes of this subsection, "full-time student" means "student"
44 as defined in Title 39-A, section 102, subsection 8, paragraph C.

46 **6. Buoy colors.** Each license applicant must describe, on
the application, a single color design of the applicant's buoys.
48

7-A. Fee. Except as provided in subsection 8, the fee for
50 the license is:

- 2 A. Forty-six dollars for a Class I license for applicants
under 18 years of age;
- 4
- 6 B. Ninety-three dollars for a Class I license for
applicants 18 years of age or older;
- 8 C. One hundred eighty-six dollars for a Class II license;
- 10 D. Two hundred seventy-nine dollars for a Class III license;
- 12 E. Forty-six dollars for a ~~Class-IV~~ an apprentice lobster
and crab fishing license for applicants under 18 years of
14 age;
- 16 F. Ninety-three dollars for a ~~Class-IV~~ an apprentice
lobster and crab fishing license for applicants 18 years of
18 age or older; and
- 20 G. Forty-six dollars for a student lobster and crab fishing
license; and
- 22
- 24 H. Forty-six dollars for a noncommercial lobster and crab
fishing license.

26 **8. Exception.** The fee for a Class I or a ~~Class-IV~~ an
apprentice lobster and crab fishing license for applicants 70
28 years of age or older is \$46.

30 **Sec. 2. 12 MRSA §6422, sub-§§1 and 4,** as enacted by PL 1995, c.
468, §4, are amended to read:

32

34 **1. Program established; experience component.** By July 1,
1996, the commissioner shall establish by rule an apprentice
36 program for entry into the lobster fishery. The program must
include practical lobster fishing experience. A person must hold
38 a ~~Class-IV~~ an apprentice lobster and crab fishing license under
section 6421 to ~~participate in~~ enter the program.

40 **4. Allowance for waivers.** Notwithstanding subsections 1
and 2, the commissioner may waive all or part of the practical
42 lobster fishing experience component or the program length for a
person ~~who holds a Class-IV license~~ before that person enters the
44 apprentice program if the person:

46 A. Documents to the commissioner that the person obtained
practical lobster fishing experience as a sternman employed
48 by the holder of a Class II or Class III license issued
under section 6421;

50

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2 B. Documents to the commissioner that the person obtained
practical lobster fishing experience as a holder of a
4 student license issued under section 6421; or

6 ~~C. Documents to the commissioner that the person:~~

8 ~~{1} Held a license issued under section 6421 during
any calendar year between calendar year 1984 and
10 calendar year 1994 or between January 1, 1995 and March
31, 1995; and~~

12 ~~{2} Held a license issued under section 6501, 6701,
6702, 6731, 6745, 6746, 6748 or 6748-A in calendar year
14 1994 or between January 1, 1995 and March 31, 1995.~~

16 D. Documents to the commissioner that the person harvested
lobster while in possession of a license issued to that
18 person under section 6421.

20 **Sec. 3. 12 MRSA §6431-D, sub-§2, ¶¶A and B**, as enacted by PL
1995, c. 468, §5, are amended to read:

22 A. Document to the commissioner the average number of traps
24 the license holders fished from the boat in the coastal
waters of the State in calendar year 1994 and calendar year
26 1995 and that average number exceeds 1,200.

28 (1) When license holders qualify under this paragraph,
the trap limit for the boat in calendar year 1996 is
30 the average number of traps the license holders fished
from the boat in the coastal waters of the State in
32 calendar year 1994 and calendar year 1995. The number
of traps fished from the boat must be reduced to 1,200
34 or less by March 1, 2003. The commissioner may
determine by rule a method for proportionally reducing
36 the number of traps fished from a boat; or

38 B. Document to the commissioner that the license holders
fished an average of more than 1,200 traps from a boat in
40 the coastal waters of the State in calendar year 1994 and
calendar year 1995 and are family members. For the purposes
42 of this paragraph, being "family members" means that one
license holder on the boat must be related to each of the
44 license holders on the boat as either a spouse, sibling,
parent by blood, parent by adoption, child by blood, child
46 by adoption, stepchild, stepparent, grandchild or
grandparent.

48 (1) When license holders qualify under this paragraph,
50 the trap limit for the boat is the product of 1,200

2 multiplied by the number of license holders who are
3 family members documented under this paragraph who
4 continue to harvest lobsters from the boat in calendar
5 year 1996 and consecutive calendar years thereafter. A
6 license holder who is a family member documented under
7 this paragraph and who does not harvest lobsters from
8 the boat in calendar year 1996 or any subsequent
9 calendar year may ~~not harvest lobsters from the boat~~
10 harvest lobsters from the boat as long as the total
11 number of traps fished from the boat does not exceed
12 1,200.

13 **Sec. 4. 12 MRSA §6446, sub-§2**, as enacted by PL 1995, c. 468,
14 §8, is repealed and the following enacted in its place:

15 **2. Rules for zones.** The commissioner may adopt rules for a
16 zone established under subsection 1 that place limits on lobster
17 and crab fishing license holders who fish in that zone regarding
18 the number of lobster traps fished and the time periods allowed
19 for complying with that number, the number of lobster traps
20 allowed on a trawl and the time of day when lobster fishing may
21 occur only when the rules were proposed by the lobster management
22 policy council established for that zone pursuant to section
23 6447, subsection 1 and the proposed rules were approved in a
24 referendum pursuant to section 6447, subsection 6. The
25 commissioner may accept the rules proposed by a lobster
26 management policy council as reasonable and adopt those rules or
27 reject the council's proposed rules as unreasonable. The rules
28 adopted under this subsection by the commissioner must accurately
29 reflect the intent of the rules proposed by a lobster management
30 policy council but are not required to be a verbatim rendition of
31 the proposed rules.

32 **Sec. 5. 12 MRSA §6446, sub-§4**, as enacted by PL 1995, c. 468,
33 §8, is amended to read:

34 **4. Public hearing not required.** In adopting rules under
35 subsection 2, the commissioner is not required to hold a public
36 hearing on the rules pursuant to Title 5, section 8052. The
37 Except as provided in subsection 6, the commissioner shall comply
38 with all other provisions of Title 5, chapter 375 when adopting
39 rules under subsection 2.

40 **Sec. 6. 12 MRSA §6446, sub-6** is enacted to read:

41 **6. Petition for rule prohibited.** A person may not petition
42 the commissioner pursuant to Title 5, section 8055 for the
43 adoption or modification of a rule for a lobster management zone
44 established under this section that regulates the number of
45 lobster traps fished and the time periods allowed for complying

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with that number, the number of lobster traps allowed on a trawl and the time of day when lobster fishing may occur.

Sec. 7. 12 MRSA §6447, sub-§§5 and 6, as enacted by PL 1995, c. 468, §8, are amended to read:

5. Council authority. Upon approval in a referendum under subsection 6, a lobster management policy council may propose to the commissioner ~~regulations~~ rules for a zone to place the following limitations on lobster and crab fishing license holders that fish in that zone, provided the proposed limitations are equal to or stricter than the limitations under section 6431-A, 6431-D, 6439, 6439-A or 6440:

- A. The number of lobster traps fished and the time periods allowed for complying with that number;
- B. The number of lobster traps allowed on a trawl; and
- C. The time of day when lobster fishing may occur.

6. Referendum on policy proposals. A lobster management policy council must submit proposed ~~regulations~~ rules to referendum in the zone in which the ~~regulations~~ rules would apply before submitting those proposed ~~regulations~~ rules to the commissioner. A lobster management policy council may submit proposed ~~regulations~~ rules to the commissioner if the proposed ~~regulations~~ rules are approved by 2/3 of those voting in the referendum.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

	1995-96	1996-97
REVENUES		
General Fund	\$65,258	\$65,258
Other Funds	17,356	17,356

2 Certain changes in the laws regulating the issuance of
lobster and crab fishing licenses will increase annual General
4 Fund revenue by \$65,258 beginning in fiscal year 1995-96. These
same changes will also increase dedicated lobster and crab
6 license fee collections. The estimated increase of annual
dedicated revenue to the Department of Marine Resources is
8 \$17,356 beginning in fiscal year 1995-96.

10 The Department of Marine Resources will incur some minor
additional costs to adopt certain rules pertaining to zones for
12 lobster and crab fishing. These costs can be absorbed within the
department's existing budgeted resources.'

14
16 **STATEMENT OF FACT**

18 This amendment replaces the bill and adds an emergency
preamble and emergency clause. It makes changes to the
20 restrictions on who may obtain a lobster and crab fishing license
in 1996 and later years. It allows a person to obtain a Class I,
22 Class II or Class III lobster license if:

24 1. The person held a license and harvested lobsters in 1993
or 1994 or at any time between January 1, 1995 and September 30,
26 1995;

28 2. The person documents to the Commissioner of Marine
Resources that the person obtained practical lobster fishing
30 experience as a sternman at any time between January 1, 1995 and
October 1, 1995 and during any part of any calendar year prior to
32 calendar year 1995;

34 3. The person documents to the Commissioner of Marine
Resources that the person obtained practical lobster fishing
36 experience as a sternman during any part of any 2 calendar years
prior to calendar year 1995; or

38 4. The person documents to the Commissioner of Marine
Resources that the person made a substantial investment in
40 lobster gear at any time between January 1, 1993 and September
42 30, 1995. The term "substantial investment" must be defined by
the Commissioner of Marine Resources.

44
46 The amendment enacts a noncommercial lobster license that
allows a resident to fish for and take lobsters with 5 traps. It
also strikes one of the conditions for a waiver from the
48 apprentice program. It enacts a waiver condition allowing the
Commissioner of Marine Resources to waive all or part of the
50 experience requirement and program length for a person who held a

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2 lobster license in the past and who can document lobster
harvesting.

4 The amendment clarifies that the Commissioner of Marine
6 Resources may not make a rule for a lobster management zone that
regulates the number of lobster traps fished and the time periods
8 allowed for complying with that number, the number of lobster
traps allowed on a trawl and the time of day when lobster fishing
10 may occur unless the rules were proposed by the lobster
management policy council of that zone.

12 The amendment exempts regulations for lobster management
14 zones from the process that allows people to petition an agency
of the State to make a rule. It also clarifies other provisions
of the lobster laws.

16 This amendment also adds a fiscal note to the bill.
18